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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/549,649	03/15/2007	Lafayette Ron Hubbard	ASI/1400(US)	6172
55313 7590 12/09/2010 SELDON & SCILLIERI 10940 WILSHIRE BLVD., 18TH FLOOR LOS ANGELES, CA 90024-3952				
EXAMINER DOUGHERTY, SEAN PATRICK				
ART UNIT 3736		PAPER NUMBER		
NOTIFICATION DATE 12/09/2010		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

SELDONLAW@VERIZON.NET

### Office Action Summary

**Application No.**

10/549,649

**Applicant(s)**

HUBBARD ET AL.

**Examiner**

SEAN P. DOUGHERTY

**Art Unit**

3736

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 September 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/22)
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date: \_\_\_\_\_

### **DETAILED ACTION**

This is the Office action responsive to the reply filed 09/27/2010 based on the 10/549649 application.

#### ***Response to Amendment***

The amendment(s) filed 09/27/2010 by the Applicant in response to the previous Office action mailed 03/26/2010 have been considered by the Examiner. The Examiner acknowledges pending claim(s) 2-25, including amended claim(s) 2-4, 6-8; new claim(s) 11-25; and cancelled claim(s) 1. The Applicant's arguments and amendments have overcome the drawing and claim objections and 35 U.S.C. 112, first and second paragraph rejections in the previous Office action. The rejection(s) in the previous Office action of the claims is/are withdrawn in response to the amended claim(s). The following new ground(s) of rejection(s) is/are set forth below:

#### ***Claim Objections***

The following claims are objected to because of the following informalities:

Claim 1 reads "unit includes" at line 19 and should read --unit includes--;

Claim 1 reads "the sensed body resistance" at line 13 and should read --the sensed body resistance sensed by the resistance measuring circuit-- to provide a link between the two devices; claim 16 reads "the difference" and should read --a difference--; and claims 17, 18 reads "the relationship" and should read --a relationship--;

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim(s) 2-25 is/are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim(s) 2 recite(s) the limitation(s) "the monitored resistance" at lines 8-9; "the resistance of the living body" at lines 10-11; "the sensed body resistance" at line 13; "the effects" at line 17; "the accuracy" at line 18; "the measurement signals corresponding to the stimulated body resistance values" at lines 1-2; "the difference between the monitored living body's digitized measurement values" at lines 8-9; "the position" at line 13; "the magnitude" at line 14; and "the processed measurement signal" at line 18. There is insufficient antecedent basis for this/these limitation(s) in the claim(s) because the limitation(s) has/have not been previously recited in the claim(s).

The terms "very low" and "very high" in claim 1 are a relative term which renders the claims indefinite. The term "very low" and "very high" are not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

The limitation "the measurement signals corresponding to the simulated body resistance values" at lines 1-2 of claim 1 render the claim indefinite. It is unclear what

the limitation "corresponding" entails as a previous correspondence has not been established in the claims.

Claims 2-25 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

### ***Response to Arguments***

Applicant's arguments with respect to claims 2-25 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### ***Contact Information***

Art Unit: 3736

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SEAN P. DOUGHERTY whose telephone number is (571)270-5044. The examiner can normally be reached on Monday-Friday, 9am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571) 272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sean P. Dougherty/  
Examiner, Art Unit 3736

/Max Hindenburg/  
Supervisory Patent Examiner, Art Unit 3736